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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,831	10/17/2005	Tetsuya Nakatsura	P26795	5642
7055 7590 09/19/2007 GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER HOLLERAN, ANNE L	
			ART UNIT	PAPER NUMBER
			1643	
			NOTIFICATION DATE	DELIVERY MODE
			09/19/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
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Office Action Summary	Application No. 10/525,831	Applicant(s) NAKATSURA ET AL.	
	Examiner Anne L. Holleran	Art Unit 1643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-8, 17, 19, 20 and 25 (in part, the extent claim 25 reads on a protein or peptide), drawn to proteins or peptides related to the amino acid sequence of SEQ ID NO: 1.

Group II, claim(s) 9-10, 21-23, 24 (in part, to the extent claim 24 reads on a probe that comprises a DNA of claim 9), and 26, drawn to DNA molecules, and compositions thereof.

Group III, claim(s) 11, 24 (in part, to the extent claim 24 reads on a probe that comprises an antibody), and 25 (in part, to the extent claim 25 reads on an antibody) drawn to antibodies that bind to a polypeptide having the amino acid sequence of SEQ ID NO: 1, or the peptide of claim 3.

Group IV, claim(s) 12-14, 18 and 25 (in part, to the extent claim 25 reads on a composition of immune cells), drawn to compositions of helper T cells, cytotoxic T lymphocytes or immunocyte populations comprising helper T cells or cytotoxic T lymphocytes.

Group V, claim(s) 15 and 16, drawn to methods of suppressing a tumor comprising introducing the cells of claim 12 into a body.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the feature that is common to inventions groups I-V is that of a polypeptide comprising the amino acid sequence of SEQ ID NO: 1. A polypeptide comprising the amino acid sequence of SEQ ID NO: 1 is taught in the prior art by Old (WO 99/04265; published 28 January 1999; cited in the IDS; see page 683-685). Therefore, a polypeptide comprising the amino acid sequence of SEQ ID NO: 1 is not a special technical feature that makes a contribution over the prior art as a whole.

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The technical feature of group I is that of the polypeptide of SEQ ID NO: 1, variants and peptide fragments thereof.

The technical feature of group II is that of a DNA encoding the polypeptide of SEQ ID NO: 1, variants and peptide fragments thereof.

The technical feature of group III is that of an antibody that binds to a polypeptide of SEQ ID NO: 1.

The technical feature of group IV is that of a composition of helper T cells, cytotoxic T lymphocytes or immunocytes induced by in vitro stimulation using a cancer antigen that is a polypeptide of SEQ ID NO: 1.

The technical feature of group V is that of introducing into a body cells that have been induced in vitro using a cancer antigen that is a polypeptide of SEQ ID NO: 1.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Each of the peptide sequences, SEQ ID NO: 3 through SEQ ID NO: 22 is an individual species of peptide.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after

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the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Claims 5-7

The following claim(s) are generic: 3, 8, 19, 20 and 25.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The peptides defined by SEQ ID NO: 3 through SEQ ID NO: 22 appear to be separate and distinct from each other, even if they are not separate and distinct from SEQ ID NO: 1. Because SEQ ID NO: 1 is known in the art as taught by Old (see above), fragments of SEQ ID NO: 1 are obvious over the prior art. Therefore, the concept of fragments of SEQ ID NO: 1 does not make a contribution over the prior art as a whole, and each of the fragments defined by SEQ ID NO: 3 through SEQ ID NO: 22 represents a unique sequence, where each is distinct from the other. Therefore, when applicant elects one of the peptides defined by SEQ ID NO: 3 through SEQ ID NO: 22, a search and examination for that species, in addition to a search and examination of SEQ ID NO: 1 will be done.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and

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specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Holleran, whose telephone number is (571) 272-0833. The examiner can normally be reached on Monday through Friday from 9:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached on (571) 272-0832. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

Papers related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform to the notice published in the Official

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Gazette, 1096 OG 30 (November 15, 1989). The Official Fax number for Group 1600 is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Anne L. Holleran
Patent Examiner
September 13, 2007



ALANA M. HARRIS, PH.D.
PRIMARY EXAMINER